



COMMERCIAL LAW LEAGUE OF AMERICA®

February 7, 2005

The Honorable John Cornyn
United States Senate
Washington, DC 20510

Dear Honorable Cornyn:

The Commercial Law League of America ("CLLA"), founded in 1895, is the nation's oldest organization of attorneys and other experts in credit and finance actively engaged in the field of commercial law, bankruptcy and reorganization. Its membership exceeds 3,500 individuals. The CLLA has long been associated with the representation of creditor interests, while at the same time seeking fair, equitable and efficient administration of bankruptcy cases for all parties in interest.

The Bankruptcy Section of the CLLA is made up of approximately 1,100 bankruptcy lawyers and bankruptcy judges from virtually every state in the United States. Its members include practitioners with both small and large practices, who represent divergent interests in bankruptcy cases. The CLLA has testified on numerous occasions before Congress as experts in the bankruptcy and reorganization fields.

A principal concern of the CLLA is the need for an amendment requiring that the domicile and residence for venue of corporate debtors be conclusively presumed to be the location of the debtor's principal place of business without regard to the debtor's state of incorporation. Such a change would benefit creditors and prevent an unacceptable degree of forum shopping by debtors who are in search of a venue that will be friendly to their needs. More important, however, requiring that a corporate bankruptcy take place locally ensures that the distinct needs of the community are not overlooked.

Allowing the practice of forum shopping by debtors undermines the bankruptcy process and creates unwarranted competition among the courts. Before filing, the debtor is able to determine which courts have taken friendly views of the debtor's particular needs and select such a court with the intent of creating a disadvantage for creditors. Indeed, some corporate debtors have even commenced bankruptcy cases in preferred venues by strategically creating or using otherwise healthy subsidiaries to create a basis for filing in the intended court. Current law as written fosters these abuses.

The CLLA strongly supports passage of the Fairness in Bankruptcy Litigation Act of 2005 (the "Act") since the proposed legislation addresses these abuses. The Act will help to eliminate the forum shopping that skews the bankruptcy process and will foster greater local control over important business and community decisions. Although the



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Act may require some technical modifications to achieve and address the legislation's purported goals, its overall provisions and goals are well grounded and supported by the abuses taking place within the bankruptcy system.

Much has been said among members of Congress that bankruptcy reform is necessary to prevent what it perceives as abuse of the bankruptcy process. A venue provision that requires corporate bankruptcies to be filed at the principal place of business furthers that goal and for all these reasons we encourage the passage of the Act at the earliest opportunity.

Respectfully submitted,
Commercial Law League of America

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